

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

LOGIC STAFFING LLC,

Defendant.

Case No.:

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990, as amended (ADA), and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Keysi Severino-Gomez who was adversely affected by such practices. As alleged with greater particularity in the Statement of Claims below, Defendant, Logic Staffing LLC (Logic Staffing), violated the ADA by failing to hire Severino-Gomez, a deaf applicant, for a Production Assistant position because of his disability.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the

1 Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12117(a), which incorporates by
2 reference Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 (“Title VII”), 42
3 U.S.C. § 2000e-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42
4 U.S.C. §1981a.

5 2. Venue is proper in the United States District Court for the Western District of
6 Washington, because the alleged unlawful employment practices were committed in the State of
7 Washington, City of Tacoma and in the County of Pierce.

8 **PARTIES**

9 3. Plaintiff, the Equal Employment Opportunity Commission (the EEOC or
10 Commission), is the agency of the United States of America charged with the administration,
11 interpretation and enforcement of Title I of the ADA, and is expressly authorized to bring this
12 action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a) (incorporating by reference, 42
13 U.S.C. §§ 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3)).

14 4. At all relevant times, Logic Staffing LLC (Defendant), has been a Washington
15 State Limited Liability Company doing business in the State of Washington and has
16 continuously had at least 15 employees.

17 5. At all relevant times, Defendant has continuously been an employer engaged in an
18 industry affecting commerce under Sections 101(5) and 101(7) of the ADA, 42 U.S.C. §§
19 12111(5) and (7).

20 6. At all relevant times, Defendant has been a covered entity under Section 101(2) of
21 the ADA, 42 U.S.C. §12111(2).

22 **ADMINISTRATIVE PROCEDURES**

23 7. More than thirty days prior to the institution of this lawsuit, Keysi Severino-
24 Gomez filed a charge of discrimination with the Commission alleging that Defendant
25 discriminated against him in violation of the ADA.

8. By letter dated September 13, 2018, the Commission issued to Defendant a

1 Determination finding reasonable cause to believe that Defendant violated the ADA and invited
2 Defendant to join with the EEOC in informal methods of conciliation to endeavor to eliminate
3 the discriminatory practices and provide appropriate relief.

4 9. The EEOC communicated with Defendant to provide Defendant the opportunity
5 to remedy the discriminatory practices described in the EEOC's Letter of Determination.

6 10. The EEOC was unable to secure from Defendant a conciliation agreement
7 acceptable to the Commission.

8 11. By letter dated October 16, 2018, the EEOC issued to Defendant notice that
9 efforts to conciliate were unsuccessful and that further conciliation efforts would be futile or
10 non-productive.

11 12. All conditions precedent to the institution of this lawsuit have been fulfilled.

12 **STATEMENT OF CLAIMS**

13 13. Since at least November 14, 2017, Defendant has engaged in unlawful
14 employment practices in violation of Sections 102(a) and (b) of Title I of the ADA, 42 U.S.C. §§
15 12112(a) and 12112(b). Defendant discriminated against Charging Party Keysi Severino-Gomez
16 when it failed to hire him because of his actual disability.

17 14. Severino-Gomez is Deaf. He is substantially limited in the major life activities of
18 hearing and communicating with others.

19 15. Severino-Gomez is disabled within the meaning of the ADA. His physical
20 impairment—deafness—is expressly identified as a disability in the ADA regulations. 29 C.F.R.
21 §1630(2)(j)(3)(iii).

22 16. In November 2017, Severino-Gomez applied for a position with Defendant as a
23 Production Associate.

24 17. The Production Associate position offered by Defendant did not require any
25 experience. The job entailed picking and sorting items for customer orders and then labeling and
packaging them. The job site is in a warehouse.

1 18. Severino-Gomez applied online for the Production Associate position.

2 19. Severino-Gomez was qualified for the Production Associate position. Although
3 no prior experience was necessary, at the time of his application for the Production Associate
4 position, he had experience performing warehouse work similar to the duties of the position.

5 20. Severino-Gomez is a qualified individual with a disability who, under Sections 3
6 and 101(8) of the ADA, 42 U.S.C. §§ 12102 and 12111(8), could have performed the essential
7 functions of the Production Associate position with or without reasonable accommodation.

8 21. On or about November 14, 2017, Defendant's Staffing Coordinator
9 unsuccessfully attempted to reach Severino-Gomez to conduct a pre-screen interview for the
10 Production Associate Position; she left a message for him to return her call. Severino-Gomez
11 returned the call the same day using a Video Relay Service (VRS).

12 22. VRS is a service that provides an American Sign Language (ASL) interpreter to
13 interpret telephone conversations between audio callers and persons who are Deaf or hard of
14 hearing. The interpreter communicates with the Deaf person using a video-display phone and
15 relays the conversation between a "hearing" person on a telephone.

16 23. The Staffing Coordinator was not aware that Severino-Gomez is Deaf until he
17 returned her call using VRS. The Staffing Coordinator was confused as to why a third person
18 was on the call. Severino-Gomez informed her that he is Deaf and explained that the third
19 person was an ASL interpreter. In response, she repeatedly informed Severino-Gomez that he
20 could not be hired due to safety reasons. Severino-Gomez tried to explain that his deafness did
21 not pose any safety risk and that he had experience performing similar duties in a warehouse
22 setting. She then asked Severino-Gomez to hold while she consulted with her manager. When
23 the Staffing Coordinator returned to the call she stated that the company did not hire people who
24 are Deaf and abruptly ended the call. Severino-Gomez attempted to call her back, but she would
25 not take the VRS call.

 24. Defendant failed to hire Severino-Gomez for the Production Associate position

1 because of his disability in violation of Sections 102(a) and (b) of Title I of the ADA, 42 U.S.C.
2 §§ 12112(a) and 12112(b).

3 25. The effect of the practices complained of in paragraphs 13 through 24 above has
4 been to deprive Keysi Severino-Gomez of equal employment opportunities and otherwise
5 adversely affect his status as an applicant because of his disability.

6 26. The unlawful employment practices complained of in paragraphs 13 through 24
7 above were intentional.

8 27. The unlawful employment practices complained of in paragraphs 13 through 24
9 above were committed with malice or with reckless indifference to the federally protected rights
10 of Keysi Severino-Gomez.

11 **PRAYER FOR RELIEF**

12 Wherefore, the Commission respectfully requests that this Court:

13 A. Grant a permanent injunction enjoining Defendant Logic Staffing LLC, its
14 officers, servants, employees, attorneys, all persons in active concert or participation with it, and
15 successors, from engaging in any employment practice that discriminates based on disability.

16 B. Order Defendant Logic Staffing LLC to institute and carry out policies, practices,
17 and programs which provide equal employment opportunities for qualified individuals with
18 disabilities, and which eradicate the effects of its past and present unlawful employment
19 practices.

20 C. Order Defendant Logic Staffing LLC to make whole Keysi Severino-Gomez by
21 providing appropriate back pay with prejudgment interest, in amounts to be determined at trial,
22 and other affirmative relief necessary to eradicate the effects of its unlawful practices, including
23 but not limited to front pay.

24 D. Order Defendant Logic Staffing LLC to make whole Keysi Severino-Gomez by
25 providing compensation for past and future pecuniary losses resulting from the unlawful
employment practices described in paragraphs 13 through 24 above, including job search and

related expenses, in amounts to be determined at trial.

E. Order Defendant Logic Staffing LLC to make whole Keysi Severino-Gomez by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices described in paragraphs 13 through 24 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant Logic Staffing LLC to pay punitive damages for its malicious and reckless conduct, as described in paragraphs 13 through 24 above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs in this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by this Complaint.

Dated: November 1, 2018

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